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SENATE

REPORT
101-494

NEZ PERCE NATIONAL HISTORICAL PARK

OCTOBER 3 (legislative day, OCTOBER 2), 1990.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2804]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2804) to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. On page 2, line 9, delete "Doug Bar, Washington and Idaho;".
2. On page 2, lines 10–13, delete the following:

> Joseph Canyon Viewpoint, Oregon; Old Chief Joseph's Gravesite and Cemetery, Oregon; Traditional Campsite at the Fork of the Lostine and Wallowa Rivers, Oregon;

3. On page 2, at the end of line 16, add the following sentence:

> Additional sites to be designated shall include but not be limited to Virginia City, Montana; Lolo Pass, Montana; St. Mary's Mission, Montana; Bannack State Park, Montana; and Pompeys Pillar, Montana.

4. On page 3, line 5, delete the word "Oregon,".
5. At the end of the bill add the following new section 5:

SEC. 5. Section 5 of the Act is amended by adding the following subsections (b) and (c) at the end thereof:

> "(b) The individual and separate federal components of the Nez Perce National Historic Park shall be administered by the respective administrative region of the National Park Service in which it is located.
>
> "(c) Cooperative agreements for the individual and separate state and private components of the Nez Perce Na-

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tional Historic Park shall be administered by the respective administrative region of the National Park Service in which it is located.".

Purpose of the Measure

The purposes of S. 2804, as ordered reported, are to amend the Nez Perce National Historical Park enabling legislation to add 14 sites in the States of Idaho, Montana and Washington to the park, to increase the acquisition and authorization ceilings for the park, and to make other conforming changes.

Background and Need

The Nez Perce National Historical Park in Idaho was established by Congress in 1965. The park was established to "facilitate protection and provide interpretation of sites in the Nez Perce country of Idaho."

In 1877, the U.S. Government was pressuring Chief Joseph and his Nez Perce Tribe to abandon their homelands in northeastern Oregon and move to a Government reservation in Idaho. The ensuing U.S. war against the Nez Perce Tribe marked the final time the U.S. Army and an Indian tribe engaged in hostilities.

Following a raid by some tribe members on settlers near the Salmon River in Idaho, the Army began a pursuit of Chief Joseph and the tribe that lasted 5 months. During that time, Chief Joseph kept the tribe (consisting of about 800 members) just ahead of the Army, on a route that went through Idaho, Wyoming and Montana in an effort to reach safety in Canada. Finally, on October 5, 1877, following a confrontation at the Bear Paw battlefield in Montana, Chief Joseph surrendered to General Miles—just 40 miles short of the Canadian border.

The tribe was then sent to exile on a reservation in Oklahoma. In 1885, Chief Joseph, along with the 267 remaining survivors of the tribe, was allowed to return to the Northwest, finally settling in eastern Washington on a reservation. Chief Joseph died at the reservation in 1904.

S. 2804 amends the Nez Perce National Historical Park enabling legislation to broaden the focus of the park from Idaho only, to include sites in Montana, Washington, Wyoming, and Oklahoma. The enabling legislation also authorizes the Secretary of the Interior to designate additional sites relating to the early Nez Perce culture, the Lewis and Clark Expedition through the area, the fur trade, missionaries, gold mining and logging, the Nez Perce War of 1877, and other sites that depict the role of the Nez Perce country in the westward expansion of the Nation. As ordered reported, S. 2804 also adds sites in Montana relating to these themes.

Legislative History

S. 2804 was introduced by Senators McClure, Adams, Baucus, Burns, and Symms on June 28, 1990. The Subcommittee held a hearing on S. 2804 on July 27, 1990.

At the business meeting on September 19, 1990, the Senate Committee on Energy and Natural Resources ordered S. 2804, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on September 19, 1990, by a unanimous vote of a quorum present, recommends that the Senate pass S. 2804, if amended as described herein.

The roll call vote on reporting the measure was 18 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston [1]	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Conrad	
Mr. Heflin [1]	
Mr. Akaka [1]	
Mr. McClure	
Mr. Hatfield [1]	
Mr. Domenici [1]	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles [1]	
Mr. Burns	
Mr. Garn [1]	
Mr. McConnell	

[1] Indicates voted by proxy.

Committee Amendments

During the consideration of S. 2804, the Committee adopted five amendments. Amendments 1 and 2 delete the Doug Bar site in Washington and Idaho and all sites in Oregon, including the Joseph Canyon Viewpoint, Old Chief Joseph's Gravesite and Cemetery and Traditional Campsite at the Fork of the Lostine and Wallowa Rivers.

Amendment 3 adds five sites in the State of Montana to the park, including Virginia City, Lolo Pass, St. Mary's Mission, Bannack State Park, and Pompeys Pillar.

Amendment 4 is a conforming amendment.

Amendment 5 clarifies that the sites included within the park and cooperative agreements entered into for such sites are to be administered by the respective administrative region of the National Park Service in which the site is located. The sites in Idaho and Washington are administered by the Pacific Northwest Region, and the sites in Montana are administered by the Rocky Mountain Region. The Committee notes that this amendment merely codifies what is current National Park Service practice.

SECTION-BY-SECTION ANALYSIS

Section 1 amends the Nez Perce National Historical Park enabling legislation (79 Stat. 110, 16 U.S.C. 281 et seq.) to add the States of Oregon, Washington, Wyomning, and Oklahoma as potential sites.

Section 2 adds 14 sites in the States of Idaho, Montana, and Washington to the park.

Section 3 amends the enabling legislation to provide that the Federal Government may acquire publicly owned lands only by donation or exchange, and private lands only on a willing seller basis.

Subsection (b) removes a provision limiting the inclusion of Indian trust lands and Federal lands administered by Federal agencies other than the Department of the Interior to not more than 1,500 acres. Neither category of land may be included without the concurrence of the beneficial owner, in the case of tribal lands, or the agency with jurisdiction, in the case of Federal lands.

Subsection (c) makes conforming changes in the enabling legislation.

Section 4 amends the enabling legislation to increase the land acquisition ceiling from $630,000 to $2,130,000 and to increase the development ceiling from $4.1 million to $9.3 million.

Section 5 amends the enabling legislation to clarify that the individual components of the park are to be administered by the respective region of the National Park Service in which the component is located.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 21, 1990.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2804, a bill to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes, as ordered reported by the Senate Committee on Engery and Natural Resources, September 19, 1990. CBO estimates that implementation of this bill would cost the federal government about $4.5 million over the next five years. No additional costs would be incurred by state or local governments as a result of this legislation.

S. 2804 would specify a number of sites in Idaho, Washington, and Montana to be designated as part of the Nez Perce National Historical Park. The bill would increase the amount authorized to be appropriated for acquisition of land for this park by $1.5 million and the amount authorized for construction, restoration and improvements by $5.2 million. Further, the bill would delete existing restrictions on the amount of land that may be acquired for the park and provide that lands and interests owned by state and local

governments may be acquired only by donation or exchange, while private lands and interests may be acquired only on a willing seller basis.

Insufficient information about the designated sites is available at this time to estimate the cost of each site or when each would be acquired, CBO cannot, therefore, determine how much of the funds authorized for land acquisition or subsequent improvements would be spent in each fiscal year. Based on information provided by the National Park Service, CBO expects that only about $3 million of the funds authorized for construction, restoration and improvements would be used under existing plans. These plans call for the construction of two visitor centers, but one of these would be on a site that was not included in the bill as order reported. We estimate, therefore, that about $4.5 million would be spent for land acquisition and improvements within the next five years, subject to the appropriation of the necessary funds.

If you wish further delails on this estimate, we will be pleased to provide them. The CBO staff contact is Marjorie Miller, who can to reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2804. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2804, as reported.

EXECUTIVE COMMUNICATIONS

On July 18, 1990, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 2804. These reports had not been received at the time the report on S. 2804 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF JERRY L. ROGERS, ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. Chairman, I appreciate this opportunity to provide your Subcommittee with the views of the Department of the Interior on this legislation.

We recommend that the Congress defer action on S. 2804 at this time. A draft reconnaissance study of the significance and historical background of the sites designated in the bill has been done by our Regional Office, but review of the study is not complete, suitability and feasibility have not been determined, and cost estimates have not been prepared.

Nez Perce National Historical Park in Idaho was authorized by the Act of May 15, 1965. The park consists of 24 sites designated by the Secretary of the Interior which commemorate the history and culture of the Nez Perce Indian country. The park includes battlefields where Chief Joseph fought superior numbers of United States Army forces in 1877.

S. 2804 would amend the 1965 Act in five ways: (1) It permits designation of sites in five states other than Idaho; (2) it directs the Secretary of the Interior to designate an additional 13 specific sites in Washington, Idaho, Oregon, and Montana, which are described in the Regional Office 1989 draft study; (3) it removes existing acreage limitations on the purchase of land and on the designation of land under the jurisdiction of other agencies; (4) it increases the appropriation authorizations for land acquisition by $1.5 million and for development by $5.2 million; and (5) it adds requirements that land owned by a state or political subdivision be acquired only by donation or exchange and that private lands may be purchased only on a willing seller basis.

Mr. Chairman, in 1969 the National Park Service investigated sites in Oregon as potential additions to this park, at the request of Members of the Oregon Congressional delegation. We note that two of those sites—Joseph Canyon Viewpoint and Old Chief Joseph's Grave—are among those to be added to the park by S. 2804.

At the request of Members of the Oregon Congressional delegation, the Regional Office formed a task force in 1987 to review the earlier study and prepare a report on the status of sites reviewed, and the suitability and feasibility of adding each site to the park. The resulting 1989 draft report identified 13 sites in Idaho, Montana, Oregon, and Washington that the Region found to be suitable for addition to the park. This report is the one referred to in section 2 of S. 2804.

The Region's draft report is now undergoing review and modification by the Regional Office. It has not been approved by the Washington Office. Moreover, we have not developed estimates of the costs of implementing the provisions of the bill. The dollar amounts that would be authorized in the bill have not been verified. Accordingly, Mr. Chairman, while we agree that potential additions should be explored, action on the bill would be premature at this time.

This concludes my prepared remarks, Mr. Chairman.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2804, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Public Law 89–19

AN ACT to authorize the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purpose

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to facilitate protection and provide interpretation of sites in the Nez Perce country of Idaho *and in the States of Oregon, Washington, Wyoming, and Oklahoma* that have exceptional value in commemorating the history of the Nation.

SEC. 2. To implement this purpose the Secretary of the Interior may designate as the Nez Perce National Historical Park various component sites in Federal and non-Federal ownership relating to the early Nez Perce culture, the Lewis and Clark Expedition through the area, the fur trade, missionaries, gold mining and logging, the Nez Perce war of 1877, and such other sites as he finds will depict the role of the Nez Perce country in the westward expansion of the Nation. *Sites to be so designated shall include the following sites as described in the 1989 National Park Service draft "Nez Perce National Historical Park Additions Study": Tolo Lake, Idaho; Looking Glass' 1877 Campsite, Idaho: Buffalo Eddy, Washington and Idaho; Camas Meadows Battle Sites, Idaho; Burial Site of Chief Joseph the Younger, Washington; Nez Perce Campsites, Washington, Big Hole National Battlefield, Montana; Bear's Paw Battleground, Montana; and Canyon Creek, Montana. Additional sites to be designated shall include but not be limited to Virginia City, Montana; Lolo Pass, Montana; St. Mary's Mission, Montana; Bannack State Park, Montana; and Pompeys Pillar, Montana".*

SEC. 3. The Secretary of the Interior may acquire by donation or with donated funds such lands, or interests therein, and other property which in his judgment will further the purpose of this Act and he may purchase with appropriated funds land, or interests therein, required for the administration of the Nez Perce National Historical Park[:]. *Lands and interests therein owned by a State or local political subdivision may be acquired only by donation or exchange and private lands or interests therein may be purchased only on a willing seller basis:*

Provided, That he may purchase no more than one thousand five hundred acres in fee, and no more than one thousand five hundred acres in scenic easements. The Nez Perce Tribe's governing body, if it so desires, with the approval of the Secretary of the Interior, is authorized to sell, donate, or exchange tribal-owned lands held in trust needed to further the purpose of this Act.

SEC. 4. (a) Indian trust land may be designated by the Secretary of the Interior for inclusion in the Nez Perce National Historical

Park with the concurrence of the beneficial owner. Sites in Federal ownership under the administrative jurisdiction of other Government agencies may likewise be designated by the Secretary of the Interior for inclusion in the Nez Perce National Historical Park with the concurrence of the agency having administrative responsibility therefor, but such designation shall effect no transfer of administrative control unless the administering agency consents thereto. [Not more than one thousand and five hundred acres overall shall be designated pursuant to the foregoing provisions of this subsection.] The Secretary of the Interior may cooperate with the Nez Perce Tribe or the administering agency, as the case may be, in research into and interpretation of the significance of any site so designated and in providing desirable interpretive services and facilities and other facilities required for public access to and use and enjoyment of the site and in conservation of the scenic and other resources thereof.

(b) The Secretary of the Interior may enter into cooperative agreement with the owners of property which under the provisions of this Act, may be designated for inclusion in Nez Perce National Historical Park as sites in non-Federal ownership, and he may assist in the preservation, renewal, and interpretation of the properties, provided the cooperative agreements shall contain, but not be limited to, provisions that: (1) the Secretary has right of access at all reasonable times to all public portions of the property for the purpose of conducting visitors through the property and interpreting it to the public and (2) no changes or alterations shall be made in the properties, including buildings and grounds, without the written consent of the Secretary.

SEC. 5. *(a)* When the Secretary of the Interior determines that he has acquired title to, or interest in, sufficient properties or determines that he has entered into appopriate cooperative agreements with owners of non-Federal properties, or any combination thereof including the designation of sites already in Federal ownership, he shall by publication in the Federal Register establish the Nez Perce National Historical Park and thereafter administer the Federal property under his administrative jurisdiction in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

(b) The individual and separate Federal components of the Nez Perce National Park Historic Park shall be administered by the respective administrative region of the National Park Service in which it is located.

(c) Cooperative agreements for the individual and separate state and private components of the Nez Perce National Historic Park shall be administered by the respective administrative region of the National Park Service in which it is located.

SEC. 6. (a) In order to carry out the purpose of this Act the Secretary of the Interior may contract and make cooperative agrements with the [State of Idaho, its] *States of Idaho, Washington, Montana, Wyoming or Oklahoma, their* political subdivisions or agencies, corporations, associations, the Nez Perce Tribe, or individuals, to protect, preserve, maintain, or operate any site, object, or property included within the Nez Perce National Historical Park, regardless of whether title thereto is in the United States: *Provided,*

That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purposes.

(c) To facilitate the interpretation of the Nez Perce country the Secretary is authorized to erect and maintain tablets or markers in accordance with the provisions contained in the Act approved August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (49 Stat. 666).

SEC. 7. There are hereby authorized to be appropriated the sums of not more than [$630,000] *$2,130,000* for the acquisition of lands and interests in land and not more than [$4,100,000] *$9,300,000* for construction, restoration work, and other improvements at the Nez Perce National Historical Park under this Act.

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